

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

CLARKS TELECOMMUNICATIONS CO.

**Petition for Limited Waiver of the
Federal Communications Commission's Rules
Concerning Administration of the North
American Numbering Plan
Carrier Identification Codes (CICs)**

File No. _____

CC Docket 92-237

To: Common Carrier Bureau

PETITION FOR LIMITED WAIVER

Clarks Telecommunications Co. ("Clarks" or "Petitioner"), by its attorneys, respectfully requests a limited waiver of the January 1, 1998 deadline for the transition to four digit Carrier Identification Codes ("CICs") and any attendant customer education requirements established in the above-captioned proceeding. Petitioner requests additional time to comply with the requirement that a carrier have four digit CIC capability. Petitioner is a small local exchange carrier which installed a new switch and became an equal access provider in 1989. Clarks does not routinely upgrade switch hardware or reprogram operating systems software. In its rural service area cost considerations are primary. Few customers request custom calling features. As

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demonstrated herein, good cause exists for this waiver^{1/} because it is technically and economically infeasible for Petitioner to comply with the January 1, 1998 deadline for conversion to the four digit CIC capability. Accordingly, Petitioner requests an extension of time to implement four digit CIC capability.

Background and Facts

On April 11, 1997, the Federal Communications Commission adopted its *Second Report and Order, In the Matter of Administration of the North American Numbering Plan Carrier Identification Codes (CICs), Petition for Rulemaking of VarTec Telecom, Inc.* CC Docket No. 92-237, FCC 97-125 released April 11, 1997 ("Second Report & Order"), which set a January 1, 1998 deadline for all carriers to transition to four digit Feature Group D CICs. This Second Report & Order shortened the anticipated deadline from the year 2000 to January 1998.^{2/} In April 1997 as soon as the Second Report & Order was released, Petitioner made efforts to assess what steps it needed to take to meet the January 1, 1998 deadline. Petitioner determined that in order for it to be able to have four digit CIC capability, it must either purchase new switch equipment or

^{1/} "The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest." WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969). Waiver of a Commission rule is appropriate where (1) the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and grant of the waiver is otherwise in the public interest, or (2) unique facts or circumstances render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest, and there is no reasonable alternative. Northeast Cellular Telephone Co., L.P. v. FCC 897 F.2d 1164, 1166 (D.C. Cir. 1990).

^{2/} *Second Report & Order* at para 4. The deadline had previously been extended from 1995 to 2000, so Petitioner had anticipated a six year transition period.

upgrade the existing operating systems software (and purchase additional equipment) for its Northern Telecom ("Nortel") switch so that the switch could support the four digit CICs. All of Clarks' exchanges are currently operating on release version 403.31 of the operating systems software, which does not have four digit CIC capability.

Clarks is making good faith efforts to purchase an updated release of the operating system software necessary to accept the four digit CICs, and to acquire the equipment which would be necessary to operate the updated software. Nortel has informed Petitioner that there is a long waiting list, because it is overwhelmed with upgrade requests. Petitioner is currently negotiating upgrade costs with Nortel. It appears that upgrading from version 403.31 to 410.10 could be as costly as purchasing a new switch.

Therefore, in the alternative, Petitioner is considering the purchase of new switch equipment as a means to accomplish the transition to four digit CICs. While Rural Utilities Services funding is in place, Clarks needs additional time to complete the required competitive bidding process to purchase the equipment and to install the new equipment once it is received. Petitioner estimates that the competitive bidding process and installation of the new switch will take at least 18 to 20 months to complete.

Request for Waiver

Petitioner requests a limited waiver of the January 1, 1998 deadline to transition to four digit CICs so that it has the time it needs to purchase and install software and equipment upgrades. As the Commission is aware, the switch equipment and required operating system software which supports it is prohibitively expensive for a small and rural LEC such as Petitioner. Compliance

with the January 1, 1998 deadline for transitioning to four digit CICs would be economically infeasible and the cost excessive for the small number of lines served by Petitioner.^{3/}

The Commission has previously recognized the technical and economic burden on small and rural LECs in implementing software upgrades. In its December 10, 1995 Caller ID Order, the Commission issued a stay of its per call block and unblocking requirements in response to waiver petitions from several LECs, including small rural LECs, that claimed that providing blocking and unblocking was technically and economically infeasible.^{4/} Requiring Petitioner to meet the January 1, 1998 CIC compliance deadline would not benefit its customers, in that the exorbitant cost of immediate equipment and software upgrades would have to ultimately be passed to the customer. Therefore, Petitioner submits that grant of a waiver of the transition deadline in this instance would benefit the public interest.

^{3/} Clarks serves about 1,000 access lines.

^{4/} *Order and Fourth Notice of Proposed Rulemaking*, 10 FCC Rcd 13796, 13808 (1995).

Conclusion

For the reasons explained, Petitioner requests a limited waiver of the January 1, 1998 deadline for implementation four digit CICs. Petitioner requests that a limited waiver be granted and an extension given until January 1, 2000. The public interest benefit in this case equals or exceeds that which the Commission has found in other instances to be sufficient for waiver. Accordingly, Petitioner requests that a waiver and extension be granted as proposed.

Respectfully submitted,

CLARKS TELECOMMUNICATIONS CO.

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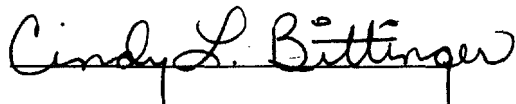
DECLARATION

I, Cindy L. Bittinger, hereby state and declare:

1. I am Secretary and Treasurer of Clarks Telecommunications Co., local exchange carrier in Clarks, Nebraska.
2. I am familiar with the facts contained in the foregoing Petition For Limited Waiver, and I verify that those facts are true and correct to the best of my knowledge and belief, except that I do not and need not attest to those facts which are subject to official notice by the Commission.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 2nd day of October, 1997.



Cindy L. Bittinger, Secretary and Treasurer
Clarks Telecommunications Co.

CERTIFICATE OF SERVICE

I, Michael D. Hunter, of Lukas, McGowan, Nace & Gutierrez, Chartered, hereby certify that on this 6th day of October, 1997, a copy of the attached "Petition for Limited Waiver" was hand delivered to the parties listed below:

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